UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF NEW YORK

CAPITAL ONE, NATIONAL ASSOCIATION,

Plaintiff,

v.

48-52 FRANKLIN, LLC, MARSHALL WEISMAN, THE NEW YORK CITY BUREAU OF HIGHWAY OPERATIONS, CREATIVE HABITATS, INC., and CM & ASSOCIATES CONSTRUCTION

Defendants.

Civil Action No.: 12-CV-3366 (LGS)

:

NOTICE OF MOTION OF CAPITAL ONE NATIONAL ASSOCIATION TO CONFIRM REPORT OF SALE AND FOR LEAVE TO ENTER DEFICIENCY JUDGMENT AGAINST DEFENDANTS 48-52 FRANKLIN, LLC AND MARSHALL WEISMAN

To: All parties in the Attached Service List

PLEASE TAKE NOTICE that Capital One National Association ("Capital One") shall move before the Honorable Lorna G. Schofield, U.S.D.J., at courtroom 1106, United States District Court for Southern District of New York, 40 Centre Street, New York, New York 10007, on December 22, 2014, at 10 am, or as soon thereafter as counsel may be heard for the entry of an Order Confirming Report of Sale and for Entry of a Deficiency Judgment.

PLEASE TAKE FURTHER NOTICE that Capital One shall rely on the attached

Certification of Eduardo J. Glas dated November 21, 2014, a proposed form of Order is also

attached.

PLEASE TAKE FURTHER NOTICE that opposition, if any, must be served upon the

undersigned by December 8, 2014.

PLEASE TAKE FURTHER NOTICE that the undersigned requests oral argument in the

event any opposition is filed to this Motion.

Dated: New York, New York

November 21, 2014

McCARTER & ENGLISH, LLP

Attorneys for Capital One National

Association

By: /s/Eduardo J. Glas

Eduardo J. Glas

A Member of the Firm

245 Park Avenue, 27th Floor

New York, New York 10167

(212) 609-6800

SERVICE LIST

BY ECF

Abraham Hoschander Abraham Hoschander & Associates Attorneys for Defendants 48-52 Franklin, LLC and Marshall Weisman 236 Broadway Brooklyn, NY 11211

John M. Comiskey, Esq.
AGOVINO & ASSELTA, LLP
Attorneys for Defendant
CM and Associates Construction Management, LLC
s/h/a CM & Associates Construction
330 Old Country Road, Suite 201
Mineola, New York 11501

BY HAND DELIVERY, OVERNIGHT MAIL, AND CERTIFIED MAIL RETURN RECEIPT REQUESTED

Marshall Weisman 240 Oak Knoll Road Lakewood, New Jersey 08701

48-52 Franklin, LLC c/o Marshall Weisman 240 Oak Knoll Road Lakewood, New Jersey 08701

and

48-52 Franklin, LLC c/o Marshall Weisman 2275 West County Line Rd. Jackson, New Jersey